

Ex. 1 - Plaintiffs' Record Letter



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May 1, 2024

Joseph Cushman
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Young Kang
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RE: Administrative Record Deficiencies
Wild Horse Education, et al. v. U.S. Dept. of Interior, et al.,
Case No. 3:23-cv-00568

Dear Mr. Cushman and Mr. Kang:

Pursuant to the Court's Scheduling Order, Dkt. 24, Plaintiffs notify Federal Defendants of deficiencies in the Administrative Record lodged with the Court on April 17, 2024, Dkt. 26.

First, Plaintiffs' Complaint avers that the BLM did not tier the Stone Valley Complex Gather EA to any HMAP, including the 1983 HMAP for the Stone Cabin HMA, in violation of 43 C.F.R. § 4710.4 and NEPA. Plaintiffs stated in their Complaint that Plaintiff Laura Leigh has not been able to find any evidence that any of the studies and assessments required by the 1983 HMAP were ever completed, including before the BLM authorized the gathers pursuant to the at-issue Gather EA. Moreover, Federal Defendants discuss the 1983 Stone Cabin Valley Wild Horse Herd Management Plan in the at-issue Gather EA. Accordingly, Plaintiffs request that the BLM add the following record documents to the Administrative Record:

- 1983 Stone Cabin Valley Wild Horse Herd Management Plan
- 1983 Record of Decision for Stone Cabin Valley Wild Horse Herd Management Plan
- Environmental Assessment for Implementation of the Stone Cabin Valley Wild Horse Herd Management Plan
- Studies, assessments, and documentation of actions conducted pursuant to the 1983 HMAP, including those in relation to the following:
 - "Seedings will be analyzed as a method to provide additional forage within the HMA and help to redistribute the grazing pressure. Feasibility

studies will be conducted prior to implementing any seedings to determine if the desired results can be obtained.”

- “Provide water for wild horses throughout the Stone Cabin Valley HMA where possible. Develop water in areas where there are no existing or proposed waters available to horses. Where waters are not available for horses, waters will be developed.”
- Habitat studies required by the 1983 HMAP.
- Wild horse population and monitoring studies or reports referenced and required by the 1983 HMAP. Note that the administrative record includes such studies for livestock and drought, but not wild horses.
- Documents related to the BLM’s actions to update the 1983 HMAP, including but not limited to the informal or formal process undertaken from 2016-2017 when Plaintiff Laura Leigh volunteered with BLM and was involved in those discussions.

In addition, the following documents are referenced within the 1983 Stone Cabin Valley Wild Horse Herd Management Plan and are needed to understand the objectives and conditions of the HMAP.

- Stone Cabin Valley CRMP recommendations
- Stone Cabin Range Monitoring Plan
- Stone Cabin Allotment Monitoring Plan
- Tonopah 1981 Management Framework Plan (MFP)
- 1981 Nevada Range Monitoring Procedures Handbook
- BLM Manual 4412
- Nevada State Office Manual Supplement 4730, Release NV 4-6

Likewise, the following documents are referenced within the included 1997 Tonopah Range Management Plan and are needed to understand the objectives and conditions of the RMP.

- 1994 (September) Nevada Rangeland Monitoring Handbook
- 1984 Nevada Rangeland Monitoring Handbook
- Bureau Technical Guides 4400-1, 2, 3, 4, & 7
- Nevada Grazing Management Manual Supplement H-4120-1
- Wild horse population and monitoring studies required under the heading “Monitor Toquima Ranges,” which includes areas that sit between Stone Cabin/Saulsbury and the Toquima Ranges

The Gather EA itself references, and incorporates by reference, the following documents missing from the Administrative Record:

- Standards for Rangeland Health in accordance with the Mojave-Southern Great Basin RAC
- Herbel, H. Carlton., Jerry L. Holechek., Rex D. Pieper., Range Management Principles and Practices. Fifth Edition. 2004 pg 141-142
- USDOJ, Bureau of Land Management. 1994. Guidelines for assessing and documenting cumulative impacts. WO-IB-94-310
- Bureau of Land Management (BLM). 2015. Instruction Memorandum 2015-151; Comprehensive animal welfare program for wild horse and burro gathers. Washington, D.C.
- BLM. 2021. Instructional Memorandum 2021-002. Wild Horse and Burro Comprehensive Animal Welfare Program. Washington, D.C.
- Bureau of Land Management (BLM). 2021. BLM Wild Horse and Burro Program 2021 Strategic Research Plan. Washington, D.C.
- Bureau of Land Management (BLM). 2022. BLM Wild Horse and Burro Program Research Update. Presentation to the Wild Horse and Burro Advisory Board, September 2022, Phoenix, Arizona, available at https://www.blm.gov/sites/default/files/docs/202209/BLM%20WHB%20Research%20presentation_Advis%20Bd_Oct2022_508_v3.pdf
- Barnett, J. 2002. Monitoring feral horse and burro impacts on habitat, Sheldon National Wildlife Refuge. Unpublished report, Sheldon NWR, Lakeview, Oregon
- Batchelor, J.L., W.J. Ripple, T.M. Wilson, and L.E. Painter. 2015. Restoration of riparian areas following the removal of cattle in the northwestern Great Basin. Environmental Management 55:930-942
- Beever, E.A. and P.F. Brussard. 2000. Examining ecological consequences of feral horse grazing using exclosures. Western North American Naturalist 63:236-254
- Belnap, J., J.H. Kaltenecker, R. Rosentreter, J. Williams, S. Leonard, and D. Eldridge. 2001. Biological soil crusts: ecology and management. USDI-BLM Technical Reference 1730-2, 119 pp.
- Burdick, J., S. Swason, S. Tsocanos, and S. McCue. 2021. Lentic meadows and riparian functions impaired after horse and cattle grazing. Journal of Wildlife Management: DOI: 10.1002/jwmg.22088
- Couvreur, M., B. Christian, K. Verheyen and M. Hermy. 2004. Large herbivores as mobile links between isolated nature reserves through adhesive seed dispersal. Applied Vegetation Science 7:229-236

Finally, Plaintiffs' Complaint alleges that the BLM set AMLs for this Complex administratively, alleging that the AMLs are not related to the maintenance of a thriving natural ecological balance. The following missing-but referenced documents, referenced in the Stone Cabin Valley Complex Gather-EA, are relevant to this claim.

- Documents describing how the current AMLs were determined for the herds in the Stone Cabin Complex, including but not limited to
 - Consent Decision signed by Administrative Law Judge David Torbet on May 11, 1992, through the Department of Interior Office of Hearings and Appeals, Hearings Division
 - 1996 Final Multiple Use Decision
 - Summary documents containing a data-based analysis and determination of AML

Whether Federal Defendants consider these documents to be part of the Administrative Record, supplements to it, or relevant for the purposes of Judicial Notice is immaterial to Plaintiffs. Plaintiffs are open to submission to the Court however the Federal Defendants deem it appropriate, but Plaintiffs believe the documents and studies listed above are a part of the record at issue in this litigation and expect the missing documents to be added for the Court's review.

We look forward to hearing your response.

Sincerely,

A handwritten signature in cursive script that reads "Jessica L. Blome".

Jessica L. Blome
Greenfire Law, PC